

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FILED-CLERK
U.S. DISTRICT COURT
2011 AUG 10 PM 4:42
TEXAS-EASTERN

David E Mack
Plaintiff

vs

Palisades Collection, LLC
Defendants

BY _____
Civil Action 4:11CV343

MOTION TO QUASH ANSWER AND AFFIRMATIVE DEFENSES AND
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON
WHICH RELIEF CAN BE GRANTED OF DEFENDANTS MICHAEL J.
SCOTT, P.C. AND MICAEL J. SCOTT

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff David E Mack files this Motion to Quash the Answer and Affirmative Defenses and Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted of Defendants Michael J. Scott, P.C. and Michael J. Scott (hereinafter referred to as “the MJSPC Defendants”) and in support thereof would show the Court as follows:

1. The MJSPC Defendants were served according to the Local Rules of Civil Procedure 5(e).
2. Palisades Collections, LLC was served by Certified mail under the local rules of the Court by the United States Marshals Service and received service on June 21, 2011 as evidenced by affidavit of United States Marshals Service entered into the court record.
3. Under rule 12(A) of the Federal Rules of Civil Procedure the Defendant has 20 days to respond not counting the day of service. As such, the MJSPC Defendants had until July 12,

2011 to reply/answer the complaint. The Defendant MJSPC Defendants did not respond until July 21, 2011 which is 9 days past their obligation to respond under the Federal Rules of Civil Procedure and only responded after receiving notice of Clerks Default from Plaintiff.

4. Due to the MJSPC Defendants' lack of response according to the Rules, their Answer and Affirmative Defenses and Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted are Moot upon their face and should be Quashed as the pleadings were not filed in a timely manner under the Federal Rules of Civil Procedure.

WHEREFORE, the Plaintiff moves this Court to Quash the Answer and Affirmative Defenses and Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted of the MJSPC Defendants and to grant judgment as already requested against individual Defendant Michael J. Scott as requested by Plaintiff.

Respectfully Submitted,



David E Mack
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the document above was sent to all parties

listed below by USPS first class mail.

Michael J. Scott
1120 Metrocrest Drive, Suite 100
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Jessica A. Hawkins, Esq.
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Dated August 10, 2011



David E Mack